



# Commonwealth of Massachusetts State Ethics Commission

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**SUFFOLK, ss.**

**COMMISSION ADJUDICATORY  
DOCKET NO. 657**

**IN THE MATTER  
OF  
ROSS A. ATSTUPENAS**

## **DISPOSITION AGREEMENT**

This Disposition Agreement is entered into between the State Ethics Commission and Ross A. Atstupenas pursuant to Section 5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented-to final order enforceable in Superior Court, pursuant to G.L. c. 268B, §4(j).

On October 16, 2001, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Atstupenas. The Commission has concluded its inquiry and, on December 19, 2001, found reasonable cause to believe that Atstupenas violated G.L. c. 268A, §§23(b)(2) and 23(b)(3).

The Commission and Atstupenas now agree to the following findings of fact and conclusions of law:

1. Atstupenas has been a member of the Blackstone police force for more than 20 years. He was promoted to chief in 2000.
2. On the morning of December 2, 2000, patrol officer Bradley Briggs issued a \$75 speeding ticket to Steven Mowry, who was traveling 47 miles per hour in a 30 mile per hour zone.
3. Steven Mowry, unbeknownst to Officer Briggs at the time, is the brother of Blackstone police officer Wayne Mowry.
4. When Chief Atstupenas arrived at the police station on December 2, the dispatcher informed him that Officer Briggs had issued a citation to Officer Mowry's brother. After hearing that Briggs had ticketed a Blackstone police officer's brother, Atstupenas sent Briggs an e-mail, which read: "Officer Briggs: It was brought to my attention...that you issued Off. Mowry's brother a citation for speeding. If at all possible could you change it to a warning and notify Officer Mowry to let his brother know that it was changed to a written warning. If there was a problem then let me know. Thanks. Chief."
5. When Officer Briggs arrived for his shift late in the evening on December 2, he read the chief's e-mail and in response to the chief's request changed Steven Mowry's speeding ticket to a written warning.

6. As of December 2, 2000, Officer Briggs had been on the Blackstone police force for less than a year. As an officer with less than one year of service, he could be dismissed by the Board of Selectmen with or without cause.

7. Section 23(b)(2) of G.L. c. 268A prohibits municipal employees from using or attempting to use their official position to secure for themselves or others unwarranted privileges of substantial value not properly available to similarly situated individuals.

8. Atstupenas was and is a municipal employee, as that term is defined in G.L. c. 268A, §1.

9. By, as chief, transmitting an e-mail to a subordinate officer requesting that he change a speeding ticket to a written warning, Chief Atstupenas used his official position.

10. Changing a speeding ticket to a written warning for no other reason than that the speeder was the brother of a fellow police officer is an unwarranted privilege, not properly available to similarly situated individuals.

11. Because the speeding ticket was in excess of \$50, it was an unwarranted privilege of substantial value. In addition, the speeder will likely avoid insurance surcharges of approximately \$100 per year for six years as a result of the change.

12. Therefore, by requesting that his subordinate officer change the ticket that he had issued to Steven Mowry to a written warning, Chief Atstupenas used his position to secure for Steven Mowry an unwarranted privilege of substantial value, thereby violating §23(b)(2).

13. Section 23(b)(3) of G.L. c. 268A prohibits a municipal employee from, knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.

14. By requesting that that his subordinate officer change the ticket that he had issued to Steven Mowry to a written warning, Atstupenas knowingly or with reason to know, acted in a manner which would cause a reasonable person, having knowledge of all the relevant circumstances, to conclude that Steven Mowry, and other family members of police officers, could unduly enjoy the Chief's favor in the performance of his official duties. In so acting, Atstupenas violated G.L. c. 268A, §23(b)(3).

In view of the foregoing violations of G.L. c. 268A by Atstupenas, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Atstupenas:

- (1) that Atstupenas pay to the Commission the sum of \$1,000 as a civil penalty for violating G.L. c. 268A, §§23(b)(2) and 23(b)(3); and
- (2) that Atstupenas waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

**DATE: March 26, 2002**